REMARKS

The present response amends the specification, drawings, and claims 1, 5, 7, 13, 16, 19, 25, 40, 52, 57, and 58. In addition, claims 4, 6, 12, 18, 21, 26, 37-39, 41-43, 47-51, 53-56, and 59-62 have been canceled without prejudice or disclaimer as to the subject matter recited therein. Claims 1-3, 5, 7-11, 13-17, 19, 20, 22-25, 27-36, 40, 44-46, 52, 57, and 58 remain pending in the captioned case. Further examination and reconsideration of the presently claimed application are respectfully requested.

Objection to the Drawings

An objection was lodged against Fig. 2 of the formal drawings. Applicants appreciate the Examiner's thorough review of the drawings. Attached hereto is a replacement sheet for Fig. 2 which corrects the drawings to include omitted reference signs 42 and 44. Accordingly, Applicants respectfully request removal of this objection.

Objection to the Specification

An objection was lodged against the Abstract of the Disclosure. In response thereto, Applicant has amended the Abstract in accordance with the Examiner's suggestions. Accordingly, Applicants respectfully request removal of this objection.

Section 112 Rejection

Claims 6, 16, 39 and 57 were rejected under 35 U.S.C. § 112, second paragraph. In response thereto, claims 6 and 39 have been canceled rendering rejection thereto moot. Moreover, the subject matter of claim 6 has been inserted into claim 1 to make clear that the network is the Internet. In addition, claims 16 and 57 have been amended to correct their antecedent basis. Accordingly, Applicants respectfully request removal of this rejection.

Section 102/103 Rejections

All pending claims were rejected under 35 U.S.C. §§ 102(b) and/or 103(a) as being anticipated and/or unpatentable over U.S. Patent No. 5,552,789 to Schuermann (hereinafter "Schuermann") or a combination of Schuermann and U.S. Patent No. 5,416,471 to Treharne et al. (hereinafter "Treharne"). The standard for "anticipation" is one of fairly strict identity. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art of reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP 2131. Furthermore, anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, as arranged in the claim. *W.L. Gore & Assocs. V. Garlock*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983). Moreover, to establish a case of *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (C.C.P.A 1974), MPEP 2143.03. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed.Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), MPEP 2143.01. Using these standards, Applicant contends that the cited art fails to teach or suggest all features of the currently pending claims, some distinctive features of which are set forth in more detail below.

The cited art does not teach or suggest a central authority/first computational device (e.g., application service provider) connected to the Internet that provides authorization for programming an access device (e.g., key). Each of the present independent claims 1, 7, 13, and 19 describe an Internet which allows communication between, for example, a central authority/first computational device and an encoding device, such as a second computational device (e.g., a primary encoding device). The encoding device can be used to program an access key with an identification tag. The identification tags and associated rule sets are contained within the application service provider, which sends such information as part of its authorization process to the encoding device over the Internet.

Contrary to using an Internet for its communication, Schuermann specifically requires that the communication between controller 10 and the various transponders 20 and 24 occur entirely within a "vehicle" (Schuermann -- col. 2, lines 10-11), or the "central in-vehicle read/write message interrogator" system (Schuermann -- col. 2, lines 39-40). Specifically, Schuermann explains that the transponders are "carried within or upon the vehicle" or "carried by [the] operator of the vehicle" (Schuermann -- col. 5,

lines 26-36). Nowhere is there any suggestion that the communication between a first computational device (such as controller 10 of Schuermann) and a second computational device (such as the lock/unlock door function 24 or the external transponder key 22 of Schuermann) be carried out as communication across an Internet. In fact, Schuermann specifically teaches that communication cannot occur an Internet since the transponders are limited to be within the vehicle, and communication occurs via radio frequency (RF) devices of limited range or battery-operated infrared (IR) radiation signaling devices (Schuermann -- col. 1, lines 39-44; col. 4, lines 47-48; col. 6, lines 63-65; etc.).

A person of skill in the art would certainly not look to Schuermann to suggest that communication between controller 10, lock/unlock door function 24, processor 33, etc. can occur via an Internet since, to do so, would allow those who are not familiar with the car operation at the present moment to modify that operation based on readings taken from transponders 20_1 - 20_N, for example. Absent any teaching of Internet communication and actual motivation for not wanting any Internet communication access outside the vehicle, Schuermann cannot be modified to teach Internet communication. The shortcomings of Schuermann are further compounded by those of Treharne. Specifically, Treharne makes no mention of any Internet communication to set the authorization for programming identification tags, etc., set forth in the present independent claims.

The cited art does not teach or suggest first computational device (e.g., application service provider), second computational device (e.g., primary encoding device), and third computational device (e.g., auxiliary encoding device) interconnected via the Internet. Present claim 1 makes clear that all three computational devices shown in Figs. 1 and 2 of the present application are interconnected via the Internet. As stated above, the cited art makes no mention of an Internet connection and certainly not connecting an application service provider to various primary and auxiliary encoding devices, each of which have a computational processor with memory and so forth as claimed. Still further, the cited references make no mention of a first computational device, such as an application service provider, providing authorization to a second computational device, such as a primary encoding device, for programming an access device, such as a key.

The cited art does not teach or suggest a means for bypassing a level of operation privileges established by an identification tag and rule set pair by disabling future accesses to the identification tag on the access device (e.g., key). Present independent claims 25 and 52 recite not only a level of operation privileges associated with an identification tag and rule set pair, but also bypassing

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those privileges or disabling future accesses to the identification tag. While Schuermann mentions a key which can receive vehicle identification code, nowhere in Schuermann is there any mention that somehow something can prevent access to the identification tag stored in the key of Schuermann. In fact, Schuermann only teaches access to the code and not disabling that access if desired. Thus, Schuermann makes no mention of bypassing access or disabling future access to the identification tag stored in the access device or key.

The cited art does not teach or suggest providing a default level of operation privileges to the user if the comparing of results of a match of an identification tag and an access device (e.g., key) with a plurality of identification tags does not result in a match. Present independent claims 40 and 52 make clear what will happen if the identification tag stored in the key does not match with a plurality of identification tags stored in, for example, an authentication device such as device 20 of present Fig. 1. While Schuermann focuses on what would occur when a match exists and access to the vehicle is allowed, Schuermann simply states that if a match does not occur, then access to the vehicle is prohibited. However, if no match occurs, according to present claims, access can occur and a default level of operation privileges is provided to allow a user to operate the vehicle, but in a predetermined default manner. This claim limitation certainly is not present in Schuermann since access is denied if a match does not occur.

The cited art does not teach or suggest a second access device (e.g., master key) for a third program instruction for authorizing the authentication request if the second access device is configured as a master of the first access device (e.g., key). Present independent claim 58 recites the use of a master key and a normal key for setting operational privileges for a user. Nowhere in Schuermann or Treharne is there any mention of a master key and normal key (slave key). Moreover, the cited references do not suggest any motivation for forming a master key, or for authorizing an authentication request if the master key is configured as a master of the normal key as claimed.

For at least the foregoing reasons, Applicant asserts that independent claims 1, 7, 13, 19, 25, 40, 52, and 58, as well as claims dependent therefrom, are not anticipated or obvious over the cited art. Accordingly, Applicant respectfully requests removal of the §§ 102 and 103 rejections of pending claims.

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CONCLUSION

The present amendment and response is believed to be a complete response to the issues raised in the Office Action mailed May 28, 2004. In view of the remarks traversing the rejections, Applicant asserts that pending claims 1-3, 5, 7-11, 13-17, 19, 20, 22-25, 27-36, 40, 44-46, 52, 57, and 58 are in condition for allowance. If the Examiner has any questions, comments or suggestions, the undersigned earnestly requests a telephone conference.

No fees are required for filing this amendment; however, the Commissioner is authorized to charge any additional fees which may be required, or credit any overpayment, to Conley Rose, P.C. Deposit Account No. 03-2769/5468-06800.

Respectfully submitted,

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